droff, 183 U. S. 424; *The Manhattan*, 46 Fed. 797. This jurisdiction is not lost though incidental repairs are performed while the vessel is hauled out on land, the criterion being that the contract relates to repair, not to the use of the marine railway or dry dock. *The Steamship Jefferson*, 215 U. S. 130; *Wartman* v. *Griffith*, 3 Blatchf. (C. C.) 528.

ADOPTION — CONTRACT TO ADOPT — RIGHT OF INHERITANCE — SPECIFIC PERFORMANCE. — The defendant's intestate and her husband contracted with the paternal grandmother of the plaintiff to adopt the plaintiff's father, "according to the statutory law" and "to do for him in every respect as if he were their offspring." Under this contract, the plaintiff's father entered the home of the defendant's intestate, and until the day of his death, the assumed ties of mother and son were maintained. The defendant's intestate did not, however, legally adopt the child. The latter's daughter sought to take under the laws of intestacy and inheritance. *Held*, that she might take. *Barney* v. *Hutchinson, et al.* 177 Pac. 890 (New Mexico).

Adoption is universally authorized in this country by statute, being unknown to the common law. *Matter of Zeigler*, 82 Misc. 346, 143 N. Y. Supp. 562. The resulting relation is therefore statutory, not contractual. *Calhoun* v. *Bryant*, 28 S. D. 266, 133 N. W. 266. Such statutes generally confer a right to inherit from the adopting parent. *Gilliam* v. *Guaranty Trust Co.*, 186 N. Y. 127, 78 N. E. 697; *Ryan* v. *Foreman*, 262 Ill. 175, 104 N. E. 189; 31 HARV. L. REV. 488. Accordingly a contract to adopt carries with it the incidental right of heirship. *Thomas* v. *Malone*, 142 Mo. App. 193, 126 S. W. 522. This right descends to the children of the adopted child. *Gray* v. *Holmes*, 57 Kan. 217, 45 Pac. 596. The right of the adopting parent to disinherit naturally follows unless the contract definitely states otherwise. The relation alone will not ground a contract of inheritance. *Odenbreit* v. *Utheim*, 131 Minn. 56, 154 N. W. 741; *Steele* v. *Steele*, 161 Mo. 566, 61 S. W. 815. In the principal case, the adoption proceedings did not conform to statutory requirements, but the contract was fully performed by the child. In such a case, the child or his heirs may recover. *Crawford* v. *Wilson*, 139 Ga. 654, 78 S. E. 30. The measure of damages for the breach of such a contract is the value of the service performed, with interest, not the value of the share of the promisor's estate which would have been inherited by the child, had the contract been performed. *Sandham* v. *Grounds*, 94 Fed. 83. Where the consideration executed on the part of the child consists of services, companionship, and a change of domestic relations, its value cannot be adequately compensated in damages. *Crawford* v. *Wilson*, *supra*. The court, regarding that as done which ought to have been done, in decreeing that the child, and therefore its heir, was entitled to the fruits of legal adoption, is in accord with the great weight of authority. *Thomas* v. *Malone*, *supra; Chehak* v. *Battles*, 133 Iowa, 107, 110 N. W. 330. But see *contra*, *Davis* v. *Jones' Adm'r*, 94 Ky. 320, 22 S. W. 331.

ADVERSE POSSESSION — TAX LIENS — WHETHER CONTINUITY OF POSSESSION AFFECTED BY. — In an action of ejectment the plaintiff based his claim in part upon a tax deed from the state which had purchased the land for the delinquent taxes of X. The defendant claimed under an adverse possession, which was running when the tax lien attached, but which had not ripened into title. The statutory period had run at the time of the purchase by the state. *Held*, the tax deed was invalid because the tax lien was extinguished by adverse possession. *West Virginia & Virginia Coal Co.* v. *Charles*, 254 Fed. 379.

For a discussion of this case, see NOTES, page 844.

BANKRUPTCY — ADJUDICATION — INSOLVENCY — *RES JUDICATA*. — A trustee in bankruptcy sued to recover a preference and offered as evidence of the

debtor's insolvency at the time of the preference the petition and adjudication in involuntary bankruptcy. The petition alleged that the defendant had received a preference, and the adjudication found that the bankrupt had been insolvent for four months preceding the filing of the petition. The defendant did not appear in the bankruptcy proceedings. The trial court ruled this evidence conclusive on the grounds that the proceedings were in a sense *in rem* and that all creditors were parties. *Held*, that the evidence is not conclusive against the defendant. *Gratiot State Bank* v. *Johnson*, U. S. Supreme Court, October Term, 1918, No. 148.

It is held that an adjudication, being *in rem*, determines the debtor's status as a bankrupt against everybody. *Michaels* v. *Post*, 21 Wall. (U. S.) 398, 428; *New Lamp Chimney Co.* v. *Ansonia Brass & Copper Co.*, 91 U. S. 656. The question of what other determinations, if any, will be *res judicata* has given rise to difference of opinion. See 1 REMINGTON, BANKRUPTCY, 2 ed., §§ 444, 445. Thus, a finding of insolvency has been held conclusive because it is *in rem* and because creditors are parties since they may appear under sections 18*b* and 59*f* of the Bankruptcy Act. (ACT OF JULY 1, 1898, c. 541, §§ 18*b*, 59*f*, 30 STAT. 544. ACT OF FEBRUARY 5, 1903, c. 487, § 6, 32 STAT. 797, 798.) *Cook* v. *Robinson*, 114 C. C. A. 505, 194 Fed. 785; *In re American Brewing Co.*, 50 C. C. A. 517, 112 Fed. 752. *Cf. Sheppard-Strassheim Co.* v. *Black*, 128 C. C. A. 147, 151, 211 Fed. 643, 647. *Contra*, *In re McCrum*, 130 C. C. A. 555, 214 Fed. 207; *Silvey & Co.* v. *Tift*, 123 Ga. 804, 51 S. E. 743. See *Mansen* v. *Williams*, 213 U. S. 453, 455. Parties in interest are considered creditors and are therefore allowed to appear. *Jackson* v. *Wauchula Mfg. & Timber Co.*, 144 C. C. A. 551, 230 Fed. 409; *In re Everybody's Store*, 125 C. C. A. 290, 207 Fed. 752. *Cf. In re Eureka Anthracite Coal Co.*, 197 Fed. 216. See 17 HARV. L. REV. 131. And such parties might similarly have been held bound. The principal case ends this confusion and establishes that only the condition of bankruptcy is, by the adjudication, binding on those not actually parties. This is the correct view, for the adjudication creates only the condition it decrees. Furthermore, section 59*f* merely provides for validating the petition. *In re Mackey*, 110 Fed. 355. See 23 HARV. L. REV. 479. Section 18*b* merely provides, as is pointed out in the principal case, that the creditors may, if they choose, protect themselves. Whether a finding is admissible in evidence, however, has been left open. It is submitted that it is not admissible, since a judgment, except so far as it may be *in rem*, affects only the parties or their privities. *Lewis* v. *Sloan*, 68 N. C. 557; *Silvey & Co.* v. *Tift*, *supra*.

BILLS AND NOTES — PURCHASER FOR VALUE WITHOUT NOTICE — RIGHTS OF A PAYEE AGAINST AN IRREGULAR INDORSER. — The defendant indorsed an incomplete note for the accommodation of the maker, which was later improperly filled in by the latter and transferred to the plaintiff, the payee. The note was dishonored at maturity and the plaintiff sues the defendant as indorser. *Held*, that he may recover. *Johnston* v. *Knipe*, 105 Atl. 705 (Pa.).

Under the Bills of Exchange Act, a payee is not a holder in due course. *Herdman* v. *Wheeler*, [1902] 1 K. B. 361. See BRANNAN, NEG. INST. LAW, § 14 (*c*). In a later case, however, the English court allowed recovery by a payee on the theory that the maker was estopped from setting up that a third party had filled up the blanks in excess of his authority. *Lloyd's Bank* v. *Cooke*, [1907] 1 K. B. 794. The theory of estoppel does not extend to the case where the blanks were filled in without *any* authority from the maker. *Smith* v. *Prosser*, [1907] 2 K. B. 735. Under the Negotiable Instruments Law, a payee has also been held not a holder in due course. *Vander Ploeg* v. *Van Zuuk*, 135 Iowa, 350, 112 N. W. 807. But the New York and Massachusetts courts have declined to follow the latter decision, giving "negotiation" a broader interpretation than is warranted by a literal construction of